

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

SAMUEL OWUSU,

Petitioner,

v.

19-CV-694
DECISION AND ORDER

THOMAS FEELEY,
in his official capacity as Field Office
Director, Buffalo Field Office, U.S.
Immigration & Customs Enforcement;

JEFFREY SEARLS,
in his official capacity as Acting Assistant
Field Office Director and Administrator,
Buffalo Federal Detention Facility; and

KEVIN McALEENAN,
in his official capacity as Acting Secretary,
U.S. Department of Homeland Security,

Respondents.

The petitioner, Samuel Owusu, filed a petition for a writ of habeas corpus seeking release from his detention at the Buffalo Federal Detention Facility. Docket Item 1. On September 6, 2019, the respondents advised the Court that they had released Owusu on a \$10,000 bond. Docket Item 17.

“Under Article III of the Constitution, when a case becomes moot, the federal courts lack subject matter jurisdiction over the action.” *Leybinsky v. U.S. Immigration and Customs Enf’t*, 553 F. App’x 108, 109 (2d Cir. 2014) (summary order) (quoting *Doyle v. Midland Credit Mgmt., Inc.*, 722 F.3d 78, 80 (2d Cir. 2013)). “Under 28 U.S.C. § 2241, the habeas statute under which petitioner challenged his detention, [courts]

retain jurisdiction so long as the petitioner is ‘in custody.’” *Pierrilus v. U.S. Immigration & Customs Enf’t*, 293 F. App’x 78, 79 (2d Cir. 2008). Because Owusu has been released from “ICE custody, the petition has been rendered moot divesting the Court of subject matter jurisdiction.” *Diop v. Sessions*, 2019 WL 1894387, at *2 (S.D.N.Y. Mar. 20, 2019). Accordingly, the petition is dismissed. If Owusu disputes the respondents’ contention that he is no longer in custody, he shall so notify this Court, in writing, and the case shall be reopened.

SO ORDERED.

Dated: September 9, 2019
Buffalo, New York

s/ Lawrence J. Vilardo
LAWRENCE J. VILARDO
UNITED STATES DISTRICT JUDGE